



**BY REGISTERED POST/FAX**

**Ref: IBSL/DG/LEG/14/11/559**

18<sup>th</sup> November 2014

**Chief Executive Officers of all Insurance Companies and Principal Officers of all Insurance Brokering Companies**

Dear Madam/Sir,

**DIRECTION NO. 5 – 18.11.2014 ISSUED UNDER SECTION 96A OF THE REGULATION OF INSURANCE INDUSTRY ACT NO. 43 OF 2000 TO ALL INSURERS AND INSURANCE BROKERS WHO ENGAGE THE SERVICES OF INSURANCE AGENTS (OTHER THAN INDIVIDUALS)**

The Board of IBSL at its 144<sup>th</sup> meeting has approved the issuing of the following Direction to all insurers and insurance brokers who engage the services of Insurance Agents (other than individuals) registered under Rule No. 1 of 2014 published in Gazette Number 1861/45 dated 10<sup>th</sup> May 2014:

**DIRECTION NO.5**

Insurers and Insurance Brokers who engage the services of Insurance Agents (other than individuals) shall enter into written agency agreements with such Insurance Agents (other than individuals) in which obligations of both parties should be defined clearly, including the following terms and conditions:

**Obligations of Insurance Agents (other than individuals):**

1. (i) To notify the insurer or the broker, as the case may be, in writing on or before 45 days from the end of each quarter (\*) of its places/locations/branches in which such person is soliciting or procuring insurance business and the following information regarding staff members working in such places / locations/ branches:
  - a) name;
  - b) residential address;
  - c) NIC number; and
  - d) whether qualified under Rule 2 (e) of the Insurance Agents (other than individuals) Qualification Rules No.1 of 2014 published in Gazette Extraordinary No. 1861/45 of 10<sup>th</sup> May 2014.
- (ii) To notify the insurer or the broker concerned in writing immediately of any changes -
  - a) to its places/locations/branches in which such person solicits or procures insurance business;
  - b) details of staff members working at such places/locations/branches; and
  - c) to its registration criteria.

\* A quarter will be constituted in the following manner:

- (a) 1<sup>st</sup> Quarter - 1<sup>st</sup> January to 31<sup>st</sup> March
- (b) 2<sup>nd</sup> Quarter - 1<sup>st</sup> April to 30<sup>th</sup> June
- (c) 3<sup>rd</sup> Quarter - 1<sup>st</sup> July to 30<sup>th</sup> September
- (d) 4<sup>th</sup> Quarter - 1<sup>st</sup> October to 31<sup>st</sup> December

2. (i) To refrain from operating to receive commissions or fees for such person's own business and in any event such person shall not receive commissions or fees for such person's own business and the insurer or the broker, as the case may be, shall not pay commissions or fees for such person's own business;

(ii) To refrain from operating to receive commissions or fees from its holding, associate or subsidiary company's own business and the insurer or the broker, as the case may be, shall not pay commissions or fees for such person's own business;

For avoidance of doubt, own business excludes insuring assets of loan/lease facilities given to customers.

3. To give publicity to the fact that such person –
- (i) does not underwrite the risk or act as an insurer; or
  - (ii) does not act as a broker.
4. To refrain from issuing any paper or any statement, whether written or oral in relation to soliciting and procuring insurance business, which does not clearly state the position of such person and name of the insurer or the broker with whom such person is registered with;
5. To refrain from making any ambiguous statements such as "in association with..", "by arrangement with .." or similar expressions that can mislead the public into assuming that such person is the insurer or the broker;
6. To refrain from charging an administration fee or service charge or any other charge to the policyholder insured;
7. To refrain from offering different rates, advantages, terms and conditions other than those offered by an insurer to a policyholder or a potential policyholder;
8. To refrain from exercising undue influence on a broker with whom such person is registered with, to place insurance business with a particular insurer;

9. To use only sales support materials, such as prospectus, sales brochures, sales illustrations and publicity write ups provided by the respective insurer or the broker;
10. To make every attempt to ensure that policyholders remit insurance premiums within the stipulated time period by giving notice to policyholders in writing, with a view to conserving insurance business already procured through such person;
11. To agree to cooperate with a person or persons that may be appointed by the insurer or the broker, as the case may, to oversee compliance with the obligations set out in the insurance agency agreement;
12. To solicit or procure insurance business only by staff members qualified in terms of Rule 2 (e) of the Insurance Agents (other than individuals) Qualification Rules No.1 of 2014.  
(However, this will not prevent other employees of such person or employees of its related companies referring prospects to the staff members for sale of insurance products, provided such references shall not be rewarded on the basis of success of sale);
13. To refrain from delegating its insurance agency function to any other person other than to its staff members;
14. To be responsible for all acts of omission and commission of its staff members, including any fraud or misappropriation of premiums;
15. To hold insurers and brokers, as the case may be, legally harmless in disputes between customers and such person directly or indirectly arising out of actions of staff members;
16. To ensure that staff members are properly trained, skilled and knowledgeable in the insurance products they market;
17. To display the names of staff members working at such places/locations/branches conspicuously;  
and
18. To ensure that its staff members –
  - (i) identify themselves as representatives of such person by an identity card issued by such person and the insurer or the broker of whom such person is an insurance agent;
  - (ii) do not force a prospect to enter into an insurance contract;
  - (iii) give adequate pre-sales and post-sales advice to the insured in respect of an insurance product and disseminate the requisite information in respect of insurance products offered for sale and take into account the needs of the prospect while recommending a specific insurance plan;

- (iv) do not make to a prospect any misrepresentation on policy benefits and returns available under the policy;
- (v) indicate the premium to be charged by the insurer for the insurance product offered for sale and any conditions relating to same;
- (vi) explain to the prospect the nature of information required in the proposal form, and also the importance of disclosure of material information in the proposal form and documents required;
- (vii) obtain the requisite documents at the time of filing the proposal form with the insurer or the broker, as the case may be, and other documents subsequently asked for by the insurer or the broker for completion of the proposal;
- (viii) bring to the notice of the insurer or the broker, as the case may be, any adverse habits or income inconsistency of the prospect along with every proposal submitted and any material fact that may adversely affect the underwriting decision of the insurer as regards acceptance of the proposal, by making all reasonable enquiries about the prospect;
- (ix) inform promptly the prospect about the acceptance or rejection of the proposal by the insurer;
- (x) extend all possible assistance and cooperation to an insured in completion of all formalities and documentation in the event assistance is sought by an insured in relation to a claim;
- (xi) do not demand or receive a share of proceeds from the beneficiary under an insurance contract;
- (xii) do not interfere with any proposal introduced by any other staff member or any insurance intermediary; and
- (xiii) do not force a policyholder to terminate an existing insurance policy.

Please acknowledge receipt of this letter.

Yours faithfully,



**Damayanthi Fernando**  
**DIRECTOR GENERAL**  
GRN/KD

Cc: Mr. Prakash Schaffter, President, Insurance Association of Sri Lanka  
Mr. Upali Samarasinghe, Secretary General, Insurance Association of Sri Lanka  
Mr. Reza Ghiasudeen, President, Sri Lanka Insurance Brokers Association